

State Water Infrastructure Authority
North Carolina Department of Environmental Quality
February 13, 2019
Meeting Minutes

State Water Infrastructure Authority Members Attending Meeting

- Kim Colson, Chair; Director, Division of Water Infrastructure
- Melody Adams, Director, Rural Grants/Programs, Rural Development Division, NC Dept. of Commerce
- Greg Gaskins, Deputy Treasurer, State & Local Finance Division; Secretary, Local Government Commission
- Leila Goodwin, Water Resources Engineer
- Maria Hunnicutt, Manager, Broad River Water Authority
- Dr. Bernadette Pelissier

Division of Water Infrastructure Staff Attending Meeting

- Cathy Akroyd, Public Information Officer
- Julie Haigler Cubeta, Community Block Development Grant – Infrastructure Unit Supervisor
- Francine Durso, Special/Technical Issues Senior Program Manager
- Seth Robertson, State Revolving Fund Section Chief
- Jennifer Haynie, Environmental and Special Projects Unit Supervisor
- Anita Reed, SRF Wastewater Unit Supervisor
- Jessica Leggett, Project Manager, Environmental and Special Projects Unit

Department of Justice Staff Attending Meeting

- Jill Weese, NC Department of Justice; Assistant Attorney General, Environmental Division

Item A. Call to Order

Mr. Colson opened the meeting and reminded the members of the State Water Infrastructure Authority (SWIA) of General Statute 163A which states that any member who is aware of a known conflict of interest or an appearance of a conflict of interest with respect to matters before the Authority today is required to identify the conflict or appearance of a conflict at the time the conflict becomes apparent.

Item B. Approval of Meeting Minutes

Mr. Colson presented the draft meeting minutes from the December 12, 2018 Authority meeting for approval.

Action Item B:

- Ms. Goodwin made a motion to approve the December 12, 2018 Authority meeting minutes. Dr. Pelissier seconded the motion. The motion passed unanimously.

Item C. Attorney General's Office Report

Ms. Weese stated that the Attorney General has filed injunctions against six entities engaged in unethical price gouging related to hurricane cleanup and asked the Authority to notify the Attorney General's office if aware of these situations.

Item D. Chair's Remarks

Mr. Colson stated that the next Authority meeting will be held on March 13, 2019 and the Authority will approve funding for the applications received in October 2018. During the week of March 18, 2019, the Division will hold "How to Apply" training in Hickory, Research Triangle Park and Mount Olive for the Spring 2019 funding round. Today, the Authority will hear two presentations about rural system viability which will provide additional perspective for the Authority's further discussions on this issue.

Item E. Authority Members' Information Update

Ms. Leggett read the following Statements of Economic Interest into the meeting minutes:

- This is an excerpt from a letter dated November 20, 2018 addressed to the Honorable Phil Berger, President Pro Tempore of the Senate, regarding the Evaluation of the Statement of Economic Interest filed by Leila Rhue Goodwin:

"Dear Senator Berger:

Our office has received Leila Rhue Goodwin's 2017 Statement of Economic Interest and 2018 Statement of Economic Interest as a member of the Ste Water Infrastructure Authority (the "Authority"). We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 163A of the North Carolina General Statutes ("N.C.G.S."), also known as the Elections and Ethics Enforcement Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 163A-193(a) and is designed to educate the covered persons as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 163A-157.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

Ms. Goodwin fills the role of a member with knowledge of urban wastewater or water systems on the Authority. She is the owner of an engineering consulting business and she was employed by the Town of Cary as a water resources manager. These entities could apply for and receive grant funding from the Authority. As such, Ms. Goodwin has the potential for a conflict of interest and should exercise appropriate caution in the performance of her public duties should issues regarding any entity for which she has performed consulting engineering work come before the Authority for official action or otherwise seek to conduct business with the Authority.

Pursuant to N.C.G.S. § 163A-159 (c), when an actual or potential conflict of interest is cited by the Board under N.C.G.S. § 163-189(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act."

- This is an excerpt from a letter dated November 20, 2018 addressed to the Honorable Phil Berger, President Pro Tempore of the Senate, regarding the Evaluation of the Statement of Economic Interest filed by Charles Eugene Vines Sr.:

"Dear Senator Berger:

Our office has received Charles Eugene Vines Sr.'s 2017 Statement of Economic Interest and 2018 Statement of Economic Interest as a member of the Ste Water Infrastructure Authority (the

“Authority”). We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 163A of the North Carolina General Statutes (“N.C.G.S.”), also known as the Elections and Ethics Enforcement Act (the “Act”).

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter’s contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 163A-193(a) and is designed to educate the covered persons as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 163A-157.

We did not find an actual conflict of interest, or the likelihood of a conflict of interest.

Mr. Vines fills the role of a member with knowledge of rural wastewater or water systems on the Authority.

Pursuant to N.C.G.S. § 163A-159 (c), when an actual or potential conflict of interest is cited by the Board under N.C.G.S. § 163-189(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board’s chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act.”

Ms. Leggett reminded the Authority that the annual filing of their Statement of Economic Interest is due on April 15, 2019. A memo from the State Board of Elections and Ethics Enforcement was included in the Authority’s meeting materials.

Item F. Communications Update

Ms. Akroyd, the Division’s Public Information Officer, presented an update about the Division’s activities including meetings, presentations, events and outreach.

Item G. Viability in Rural Water and Wastewater Systems

Mr. Daniel Wilson, Executive Director of the North Carolina Rural Water Association (NCRWA), discussed viability in rural North Carolina. Mr. Wilson provided a handout to the Authority and presented an overview of NCRWA’s mission, accomplishments and activities. Mr. Wilson presented the following proposed solutions to assist struggling systems move towards long-term viability:

1. Mandatory utility board and elected official training consisting of basic technical and in-depth system finance and management training, noting that “educate and leave” will not work (i.e., requires more than one hour every three years) and follow-up resources must be attached to the training.
2. Adequate compensation and benefits to attract and retain talented professionals.
3. Adequate rate setting for full cost recovery plus depreciation.
4. Model interlocal agreements that are not one-sided when regionalizing.
5. On-site managerial, financial and technical assistance.
6. Energy audits and conservation programs with incentives for implementation.
7. Ensure that all State Water Infrastructure Authority funding approvals include strong requirements for performance.

The Town of Pink Hill was presented as a story of success. Due to the Central Coastal Plan Capacity Use Area Rules, Pink Hill is a member of the Neuse Regional Water and Sewer Authority, which supplies treated drinking water to the Town. Mr. Wilson reviewed the system demographics, financials, rates, adjustment policy and the reasons that the town operates a viability utility, as follows:

- Educated decision making by the Town Council, noting that an NCRWA staff member has been on the Council for 20 years and has led the Council toward good decision making.
- Competent system management, noting that the Town pays well and provides a good work environment, leading to staff longevity.
- Adequate rates and policies which include funding depreciation of the system at 2% per year, allowing no adjustments for water leaks, and wastewater adjustment only if the customer can provide a statement from a plumber or town employee checks and makes sure the leak did not enter the wastewater system.

Other points made by Mr. Wilson include:

- A primary reason that utilities are non-viable is that boards and elected officials don't understand the needs. Education of boards and elected officials should be required, particularly if a town is distressed. Managerial and financial policies are needed.
- There are three options for utilities to fund their needs: use money they have banked, borrow money, or collapse.
- Finding and retaining qualified staff to maintain utility systems and reduce the overall risk of failure in a system is critical.
- The SRF and the USDA are two key sources of funding for rural utilities and should include requirements when awarding funding such as requiring proof that the system will be properly maintained and that appropriate rates will be charged and kept in place.

The following topics were discussed by Mr. Wilson and the Authority:

- Are there enough operators coming into the field for every system to hire an operator? Are there even enough people in the industry to be employed by systems? Mr. Wilson stated that the number of people taking the entry-level operator exam hasn't changed in the past seven years, meaning that people are entering and leaving the industry. Retaining people in these positions is an issue.
- Given that many boards and elected officials have full time employment, are there new ways to provide training? Mr. Wilson stated that online training can be of good quality, but the problem is that very little is retained. Repetition is the key and most real learning happens in a live classroom.
- Do you have recommendations for the more critical, emergency issues and are there short-term solutions? Mr. Wilson stated that the question may be whether some utilities can ever be viable because with few jobs and economic drivers, how will such towns pay for their utility systems or any other bills. Is it possible that the only way forward for certain areas is to rely on state subsidies?
- Are operations and maintenance (O&M) budgets and day-to-day operations where they need to be? Mr. Wilson stated that in general, he doesn't believe there are many utilities in the state fully covering the cost of operations and maintenance.

Item H. Decentralized Water and Wastewater System Management Options for North Carolina

Mr. Victor D'Amato, Associate Director of Tetra Tech Engineering, presented on decentralized water and wastewater system management options. Mr. D'Amato described the continuum in North Carolina from onsite systems to distributed systems to centralized systems and the associated regulatory oversight typical for each. He noted that in all types of systems, management is the key to successful operations.

Decentralized system applications include:

- Rural areas in which management intensity is tied to risk.
- New development outside of sewer service areas.

- Existing unsewered communities with needs but with very high cost to provide centralized sewer (in the range of \$20,000 to \$80,000 per home).
- Repurposing or downsizing/rightsizing existing sewer areas especially in distressed communities.
- Enabling localized resource recovery and reuse.

Mr. D'Amato cited EPA's Decentralized Wastewater Memorandum of Understanding, the Water Environment Research Foundation (WERF) distributed system applications which includes a decision-support tool, available resources, and government financing for onsite systems. He described case studies including the Chesapeake Bay Attenuation Panel which is charged with the review of available science on how to factor nutrient attenuation into the Chesapeake Bay TMDL onsite wastewater treatment system load estimates and target efforts in the highest contributory areas, and Maryland's Eastern Shore Onsite Wastewater Treatment System (OWTS) nutrient management evaluation. Two North Carolina case studies were also presented:

- Meadows Water and Sewer District in Halifax County
 - High percentage of non-compliant or problematic septic systems
 - Capital cost of \$22,000 per home to provide centralized sewer service + \$95/month sewer bills
 - Considering a distributed cluster wastewater management approach estimated to cost \$8,800 per home
- Town of Lake Santeetlah in Graham County
 - Lake water quality issues due primarily to on-site systems adjacent to the lake
 - Preliminary evaluation of potential cluster wastewater system sites
 - Raising awareness through an educational campaign and property owner survey

The following topics were discussed by Mr. D'Amato and the Authority:

- Counties do not appear to be interested in managing decentralized systems; is this something you see regularly? Mr. D'Amato stated that in North Carolina, counties are more often the regulatory entity with citizens pressing for needs to be met.
- What ability does the Authority have to provide "micro-loans"? Mr. Colson stated that the Division will have to determine if this can be done with SRF loan funds. Mr. D'Amato believes this has occurred in other states.

Item I. De-obligated CDBG-I Funds Update

Ms. Cubeta updated the Authority about CDBG-I de-obligated funds; the policy was provided in the Authority's meeting materials. The total amount of de-obligated funds from previous years is approximately \$3.8 million. Ms. Cubeta notified FY 16 grantees of the availability of funds in the event of project overruns. If those projects do not require additional funds, the Authority may consider awarding the de-obligated funds to projects at the next Authority meeting. The following topics were discussed by staff and the Authority:

- Will the projects awarded FY 2017 and 2018 funds need additional money? The FY 2017 projects are in the environmental review phase and are not far enough along to know if they will need additional funds. Mr. Colson added that funds may be needed for cost overruns in order to keep projects moving forward.

Item J. Fair Bluff/Fairmont Initiative Update

Ms. Durso updated the Authority about meetings with the Town Councils of the 5 towns that are part of the Initiative (Boardman, Fair Bluff, Cerro Gordo, Fairmont and Proctorville). The project team presented to each council individually with the goal to provide a complete picture to allow well-informed decisions by the

Councils. Next, the Towns will meet together to discuss possible paths forward. The project team's next steps depend on the Town's decisions. The following topics were discussed by staff and the Authority:

- What options were presented? Three options were presented: (1) the Towns continue to operate as individual, independent utilities; if they seek funding, they would be required to demonstrate that they have proper organizational and financial management in place (currently they do not), including increasing utility rates to pay for the needed infrastructure rehabilitation / replacement; (2) create a new authority that would own and operate all the wastewater infrastructure assets in all the towns; and (3) consolidate all sewer systems with the City of Lumberton which would then own and operate the systems and treat all wastewater at its plant. Mr. Colson stated that we were clear with each Town Council these were the options evaluated and there are variations of each option.
- How do the towns decide what to do, and what funding is available? Mr. Colson stated that there is currently not enough money available to put a complete solution in place. However, the towns should internally evaluate the options and consider their possible paths forward.
- Is there more work that can be done now to evaluate other options? Mr. Colson stated that it was made clear to the Towns from the start of this project that they were under no obligation to do anything, and this was stated again to each Council. The Town's decisions will drive the next steps and If they wish to pursue certain options, we may be able to provide some additional analysis assistance.

Item K. Ensuring Viable Utilities Work Session

Mr. Colson reviewed the topics discussed by the Authority at the viable utilities work session at the October 2018 meeting: criteria and process development, targeted outreach, future viability assessments, evaluation of "non-traditional" options, ensuring the options evaluated will result in long-term viability, and economic and demographic shifts. The following topics were discussed by staff and the Authority:

- Can the Authority fund specific, detailed regionalization studies? Chair Colson stated that there are currently not enough grant funds provided by the General Assembly for such work but that the Division had invested funds in the Fair Bluff/Fairmont Initiative to develop a process/template for conducting such evaluations for other entities. This is an opportunity to develop a different approach to simply applying for funding. Potentially, proposals could be made by local governments and the Authority could accept a system or systems into a process that could result in an alternate way of funding that does not involve the commitment of an initial specific dollar amount. The Authority could make this recommendation in its 2019 Annual Report to the General Assembly.
- Chair Colson added that the Division has received feedback regarding the \$50,000 Merger / Regionalization Feasibility grant limit. It is acknowledged that the \$50,000 does not cover the full cost of a thorough analysis, but the original intent of the MRF grants was to provide "seed" money for entities to begin exploring the feasibility of merger, consolidation or other forms of partnership.
- Is it anticipated that the Authority and the Local Government Commission would identify the systems that could go through the process, or would systems apply? It is possible that both approaches could be put in place.
- Ms. Goodwin introduced the idea of an incentive-based process, possibly a certification process; an example is the American Public Works Association (APWA) which has a certification process in which the local government commits to the process and to ongoing elected official education.
- Mr. Gaskins stated that the Committee to Study Rates and Transfers/Public Enterprises led by Senator Newton and Representative McGrady has discussed these issues. When the LGC took over management of a town a few years ago, they found that it was impossible for the town to ever come close to properly operating their utility system. The town no longer owns its utility and is still

financially weak and at risk, but it would have gone bankrupt if it had kept its utility system. He noted that if starting with a “blank slate” to provide water and sewer services, it is likely that the way utilities are currently structured would not be the not be set up as they currently are. It makes sense for the Authority, LGC, and DEQ to work together on these issues. The key component is funding to move nonviable LGUs to viability while also addressing the political concerns. Linking funding to a process that includes grant conditions and monitoring by the Authority and the LGC will be key.

- Chair Colson added that being able to demonstrate success with some utilities is key and asked the Authority for their thoughts on future discussion topics, as follows:
 - Independent and trusted analyses are crucial, conducted by those with the knowledge and responsibility to objectively evaluate options and suggest paths forward.
 - The Authority often discusses the need for elected official education and this was stressed by Mr. Wilson in his presentation. It is important to know what is already available and how it might be made more effective.
 - Economic and social situations are also important and long-term trends in counties and towns must be examined in making these decisions. Other agencies may need to be involved.
 - At the Authority’s March 2019 meeting, the UNC Environmental Finance Center will present on their current work regarding the 2018 NC Utility Management Survey, and new guidance documents for interlocal agreements and system consolidation.
- Ms. Durso added that the Division works with many state and professional organizations and knows that many of them provide a wide variety of training. The Division is planning to bring together these organizations that offer non-financial support and resources to document what is already available and where there may be gaps.

Item L. Informal Comments from the Public

Chair Colson stated that public comments could be made at this time with the reminder that in accordance with the Authority’s Internal Operating Procedures, comments must be limited to the subject of business falling within the jurisdiction of the Authority and should not be project specific. There were no informal comments from the public.

Item M. Concluding Remarks by Authority Members, Chair and Counsel

The presentations made today were relevant and timely. Members are encouraged by the partnership with the LGC and the work with the Committee to Study Rates and Transfers/Public Enterprises. A new way of thinking about utility viability and its relationship to funding is emerging.

The next Authority meeting will be held on March 13, 2019.

Item N. Adjourn – The meeting was adjourned.